



## **AFFIDAVIT IN SUPPORT OF REISSUE APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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|                       |  |                 |                 |
|-----------------------|--|-----------------|-----------------|
| In re Application of: | Mitchell et al.                                    | Group Art Unit: | 1618            |
| Serial No.:           | 10/614,940   |                 |                 |
| Filed                 | 7/7/2003   | Examiner:       | Young, Micah P. |
| For:                  | ORAL REHYDRATION COMPOSITIONS CONTAINING LIPOSOMES |                 |                 |
| Docket No.:           | 590-004  |                 |                 |

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Commissioner of Patents and Trademarks  
PO Box 1450  
Alexandria, VA 22313-1450

### **AFFIDAVIT OF JAMES B. MITCHELL**

Dear Sir:

State of California

ss:

County of San Joaquin

James B. Mitchell, being duly sworn, deposes and says:

1. I am a co-inventor and applicant in the United States patent application of Mitchell et al., Serial No. 10/614,940, filed July 7, 2003, which application was technically abandoned on February 6, 2006;
2. The title to the instant patent application is currently the subject of litigation in Court of Chancery of the State of Delaware in and for New Castle County; Creative Research Manufacturing v. Advanced Bio-Delivery LLC and Phlo System, Inc., Del.Ch., C.A. No. 1211-N-VC Parsons (the "Delaware Litigation");
3. The express abandonment of the instant application was performed by James Hovis and Phlo System, Inc. for improper purposes and apparently in order to frustrate any adverse judgment issued in the Delaware Litigation;
4. Cheryl R. Mitchell and I are co-inventors and the true owners of the instant application;
5. That said abandonment was entirely unintentional by the true owners;
6. That promptly upon realizing the import of the abandonment, Cheryl R. Mitchell and I caused to be drafted the accompanying petition to revive the unintentionally abandoned application and I executed this affidavit.

Affiant avers that the abandonment of the above-identified application was entirely unintentional as indicated above and that it occurred without any fraudulent or deceptive intention by the inventors and true owners of the application.

James B. Mitchell  
James B. Mitchell

State of California, County of San Joaquin

Subscribed and sworn to (or affirmed) before me this 21<sup>st</sup> day of April by

James B. Mitchell, ~~personally known to me~~ or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Emma Villar Aguilar  
Notary Public

